

In re Patent Application of:  
**DE LAENDER ET AL.**  
Serial No. **10/660,067**  
Filing Date: **September 11, 2003**

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**REMARKS**

Applicants would like to thank the Examiner for the thorough examination of the present application. Method Claims 89-95 have been withdrawn based on the initial restriction requirement in which the device claims were selected for prosecution over the method claims. The independent claims have been amended to more clearly define the present invention over the cited prior art reference.

The Examiner also rejected the claims as containing subject matter (i.e., top member constructed with the plate above the cross supports; and bottom support member made up of a plurality of members) not described in the specification. For the top member, reference is directed to paragraph 22 in the published patent application which provides: "In at least one embodiment, as shown in FIG. 1, the top support member **12** may be formed from three cross supports **24** positioned generally parallel to each other and a plate **26** coupled to a top surface **20** of the three cross supports **24** forming the top surface **20**." For the bottom support member, Claim 82 has been amended to recite "at least one bottom support member." Claim 66 has been amended to remove reference to the lifting device. The Applicants thus submit that the claimed subject matter is supported by the specification.

The Examiner also objected to the drawings as not disclosing every feature of the claimed invention. In view of the claim amendments, the Applicants submit that the drawings correctly show at least one bottom support member. In terms of

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the top support member, FIG. 1 illustrates the top support member **12** comprising cross supports **24** and a plate **26** coupled to a top surface **20** of the cross supports **24** forming the top support member **12**. FIG. 1 appears to illustrate the cross members **24** as comprising a single cross member as compared to a plurality of cross members. If the Examiner insists, FIG. 1 can be modified to show a plurality of cross members **24**.

The claim amendments and arguments supporting patentability of the claims are provided below.

#### **I. The Claimed Invention**

The present invention, as recited in amended independent Claim 64, is directed to a pallet comprising at least one top support member adapted to support cargo, at least one bottom support member, and a plurality of solid support blocks for separating the at least one and bottom support members so that a lifting member can be inserted therebetween.

Each solid support block comprises a composite material comprising at least one cellular material and at least one thermal plastic material, and having upper and lower support member fastening surfaces devoid of any openings for completely defining respective upper and lower support member fastener areas. A plurality of fasteners fasten the at least one top and bottom support members to the plurality of solid support blocks via the respective upper and lower support member fastener areas.

Since the support blocks are solid and comprise a composite material comprising at least one cellular material and

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at least one thermal plastic material, they advantageously dissipate energy from impacts caused by the lifting member. In addition, since the upper and lower support member fastening surfaces are devoid of any openings for completely defining respective upper and lower support member fastener areas, the fasteners can be applied through both the top and bottom support members to any portion of the fastener areas.

Independent Claim 82 has been amended similar to amended independent Claim 64.

## **II. The Claims Are Patentable**

The Examiner rejected independent Claim 64 over the Ausavich et al. patent, and independent Claim 82 over the Ausavich et al. patent in view of the Welleman patent. Both of these rejections will be discussed below.

The Ausavich et al. patent is directed to a pallet with molded plastic pallet spacer feet. The molded plastic pallet spacer feet correspond to the support blocks in the claimed invention. The Examiner cited the Welleman patent as disclosing a top member of a pallet as comprising a plurality of spaced apart cross supports positioned generally parallel to each other, and a plate coupled to an upper surface of the plurality of spaced apart cross members adapted to support cargo.

In the Ausavich et al. patent, the spacer feet 1 includes hollow cylindrical segments **12**, one on each side of the vertical section **10** that is solid, as shown in FIGS. 1 and 2. The Examiner has taken the position that the spacer feet in the

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Ausavich et al. patent includes solid portions that allows nails to be driven therethrough. The spacer feet **1** in the Ausavich et al. patent also includes a bolt hole **6** extending therethrough as well as drains holes **14** in the bottom portions thereof.

The Examiner has taken the position that when the pallet is assembled in Ausavich et al., the vertical perimeter of the support blocks (i.e., spacer feet **1**) is the only exposed surface and it does not contain openings. The Examiner has also taken the position that the "for" recitations in the claims has not been given any patentable weight.

In terms of the "exposed outer surfaces," the claims have been amended to more clearly define these surfaces. In particular, the claimed invention has been amended to recite that each solid support block has upper and lower support member fastening surfaces devoid of any openings for completely defining respective upper and lower support member fastener areas. Consequently, the exposed outer surfaces in Ausavich et al. are completely different from the upper and lower support member fastening surfaces in the claimed invention.

Moreover, the defined upper and lower support member fastener areas in the claimed invention positively recite the area where the upper and lower support members are to be coupled to the support blocks. This is evidenced by the claim recitation of the plurality of fasteners for fastening the at least one top and bottom support members to the plurality of solid support blocks via the respective upper and lower support member fastener areas.

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The Welleman patent fails to provide the noted deficiencies of the Ausavich et al. patent.

Since the support blocks are solid and comprise a composite material comprising at least one cellular material and at least one thermal plastic material, they advantageously dissipate energy from impacts caused by the lifting member. In addition, since the respective upper and lower support member fastener areas are devoid of any openings, the fasteners can be applied through both the top and bottom support members to any portion of the defined fastener areas.

Accordingly, it is submitted that amended independent Claim 64 is patentable over the Ausavich et al. patent. Amended independent Claim 82 is similar to amended independent Claim 64. Therefore, it is submitted that this claim is also patentable over the Ausavich et al. patent in view of the Welleman patent.

In view of the patentability of amended independent Claims 64 and 82, it is submitted that the dependent claims, which include yet further distinguishing features of the invention are also patentable. These dependent claims need no further discussion herein.

### **III. CONCLUSION**

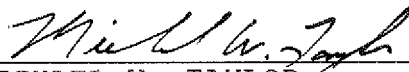
In view of the amendments to the claims and the arguments provided herein, it is submitted that all the claims are patentable. Accordingly, a Notice of Allowance is requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned

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attorney at the telephone number listed below.

Respectfully submitted,

  
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